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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,517	12/27/2001	Pu Zhou	12013/61601	9382

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KENYON & KENYON  
1500 K STREET, N.W., SUITE 700  
WASHINGTON, DC 20005

EXAMINER

MAIORINO, ROZ

ART UNIT PAPER NUMBER

3763

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/026,517

Applicant(s)

ZHOU, PU

Examiner

Roz Maiorino

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11,12 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1,3-9,11,12 and 28 is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 9, 11-12 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No.5554114 to Wallace et al.

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Wallace teaches a catheter with an entrance, exit and a wall surrounding a channel linking the entrance and the exit the wall has a bendable curve memory portion and a reinforcing structure.

2. Claims 9 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5163431 to Griep

Griep teaches a catheter with an entrance, exit and a wall surrounding a channel linking the entrance and the exit the wall has a bendable curve memory portion and a reinforcing structure. Where the shape memory is perforated metal allowing for a plurality of flushing orifices.

3. Claims 9-10, 28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5425723 to Wang

Wang teaches a catheter with an entrance, exit and a wall surrounding a channel linking the entrance and the exit the wall has a bendable curve memory portion and a reinforcing structure. Where the shape memory with multiple orifices 90 for perforation (figures 1-4)

4. Claims 9-10, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 5681274 to Perkins et al or US Patent No. US Patent No. 5322521 to Wilk or US Patent No. 5176664 to Weisman.

Perkins, Weisman or Wilk all teach a catheter with an entrance, exit and a wall surrounding a channel linking the entrance and the exit the wall has a bendable curve memory portion and a reinforcing structure. Where in the inside surface of the first tube is lubricated.

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5. Claims 9-10, 12 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6780175 to Sachdeva et al

Sachdeva teach a catheter with an entrance, exit and a wall surrounding a channel linking the entrance and the exit the wall has a bendable curve memory portion and a reinforcing structure. Where in the inside surface of the first tube is lubricated.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-5, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6036682 to Lange et al and further in view of US Patent NO. 4568338 to Todd.

Lange teaches a medical catheter having an entrance orifice, and exit orifice, a channel connecting the entrance orifice and the exit orifice and a wall surrounding the channel, the hardness of the wall surrounding the channel decreases in hardness then increases in hardness and then decrease again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. the hardness of the wall surrounding the channel decreases in hardness then increases in hardness and then decrease again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. A second

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catheter located within the first catheter, the first catheter sized to allow the second catheter to move within it. (figures 1-10)

However it does not teach a second catheter located within the first catheter, the first catheter sized to allow the second catheter with flushing orifices to move within it. Or A third catheter located within the second catheter, the second catheter is sized to allow the third catheter to move within it.

Todd teaches a Catheter needing an introducing catheter which contains a guide wire (third catheter).

Therefore it would have been obvious to one having ordinary skill in the art to have combines these two teachings, because Lange's catheter is an introducing catheter which can be used to allow other tubes to be introduced in the human orifices and Todd's tube can be introduced in Lange's tube since Lange's catheter is more rigid than Todd allowing for a easier insertion.

7. Claims 1, 3-5, 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6036682 to Lange et al and further in view of US Patent NO. 5676659 to McGurk.

McGurk teaches a medical catheter having an entrance orifice, and exit orifice, a channel connecting the entrance orifice and the exit orifice and a wall surrounding the channel, the hardness of the wall surrounding the channel decreases in hardness then increases in hardness and then decreases again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. the hardness of the wall surrounding the channel decreases in hardness then increases in

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hardness and then decrease again in hardness when considered from an initial reference point at the entrance orifice and traveling towards the exit orifice. A second catheter located within the first catheter, the first catheter sized to allow the second catheter to move within it. (figures 1-10)

However it does not teach a second catheter located within the first catheter, the first catheter sized to allow the second catheter with flushing orifices to move within it. Or A third catheter located within the second catheter, the second catheter is sized to allow the third catheter to move within it.

McGurk teaches a Catheter needing an introducing catheter which contains a guide wire (third catheter).

Therefore it would have been an obvious to one having ordinary skill in the art to have combines these two teachings, because Lange's catheter is an introducing catheter which can be used to allow other tubes to be introduced in the human orifices and McGurk tube can be introduced in Lange's tube since Lang's catheter is more rigid than McGurk allowing for a easier insertion.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 3-12, 28 been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed 8/31/2004 have been fully considered but they are not persuasive. Applicant alleges Lang does not teach a region of decreasing hardness

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however as mentioned before Lang does teach a region of hardness change such as 54, 34, 56, 40.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Maiorino whose telephone number is 571- 272-4960. The examiner can normally be reached on 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone



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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RM



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